

AMENDED IN ASSEMBLY JULY 7, 2005

AMENDED IN ASSEMBLY JUNE 27, 2005

AMENDED IN SENATE MAY 31, 2005

AMENDED IN SENATE MARCH 31, 2005

SENATE BILL

No. 4

Introduced by Senator Murray
(Coauthor: Assembly Member Jerome Horton)

December 6, 2004

An act to add Chapter 4.5 (commencing with Section 6400) to Division 7 of Title 1 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 4, as amended, Murray. The California Public Performance Facilities ~~Authority~~ Act.

Existing law authorizes a public agency or entity created pursuant to a joint powers agreement by 2 or more public agencies to, among other things, make and enter into contracts, acquire, construct, manage, maintain, or operate any building, work, or improvement, hold or dispose of property, or incur debts, liabilities, or obligations for specified public purposes. Existing law also authorizes the public agency or entity to issue revenue bonds for acquiring or constructing a coliseum, stadium, sports arena, sports pavilion, or other building for holding sports events, athletic contests, contests of skill, exhibitions, spectacles, and other public meetings.

This bill would enact the California Public Performance Facilities ~~Authority~~ Act and ~~establish the California Public Performance Facilities Authority in state government to be administered by a board~~

~~of directors composed of 9 appointed members require the Board of Directors of the California Infrastructure and Economic Development Bank to administer the act. The bill would authorize the authority board to, among other things, acquire, construct, manage, maintain, or operate a facility, as defined, including, but not limited to, a coliseum, stadium, sports arena, theater, performance hall, or sports pavilion, subject to specified conditions. The bill would also authorize the authority board to sell premium seat licenses, as defined, and naming and sponsorship rights, and to issue revenue bonds and other forms of indebtedness through the California Infrastructure and Economic Development Bank for purposes of the bill, subject to specified conditions.~~

The bill would authorize the ~~authority board~~ to enter into agreements with other state or public agencies to operate a facility for the general recreational purposes of a city or county. The bill would also authorize the ~~authority board~~ to charge a facilities' fee and a transaction fee to cover the actual costs of the ~~authority~~ under the act. The bill would prohibit the ~~authority board~~ from using state funds for any of its purposes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 4.5 (commencing with Section 6400) is
2 added to Division 7 of Title 1 of the Government Code, to read:

3
4 CHAPTER 4.5. CALIFORNIA PUBLIC PERFORMANCE
5 FACILITIES-AUTHORITY ACT

6
7 Article 1. Title and Definitions

8
9 6400. This chapter shall be known and may be cited as the
10 California Public Performance Facilities-Authority Act.

11 6401. As used in this chapter, the following definitions shall
12 apply:

13 (a) ~~“Authority” means the California Public Performance~~
14 ~~Facilities Authority.~~

15 (b)

(a) “Bank” means the California Infrastructure and Economic Development Bank.

~~(e) “Board” means the board of directors of the authority.~~

(b) “Board” means the Board of Directors of the California Infrastructure and Economic Development Bank.

~~(d)~~

(c) “Facility” includes all of the following that have received all necessary land use and other development approvals required by the city, county, or city and county in which the proposed facility will be located:

(1) Coliseums, stadiums, arenas, pavilions, theaters, performance halls, or other structures or buildings for holding athletic events or other events, performances, and gatherings, including, but not limited to, professional or amateur baseball, football, and basketball, automobile racing, musical, dramatic, artistic, or cultural performances or events, social events, and other public meetings, fairs, or public events.

(2) Practice fields and related areas that are part of a facility specified in paragraph (1), where professional or amateur sports teams may practice.

(3) Property that is part of, adjacent to, or in some other manner directly connected with a facility specified in paragraphs (1) and (2), including, but not limited to, all of the following:

(A) Offices, parking lots and garages, access roads, streets, intersections, highway interchanges, pedestrian walkways, tunnels, bridges, transportation facilities, monuments, restaurants, stores, and other facilities providing goods and services to persons attending performances, meetings, contests, gatherings, or events at a facility.

(B) Other property or structures, including all fixtures, furnishings, and appurtenances, directly associated with a facility.

(C) Facility related landscaping, parks, and open spaces.

(D) Equipment and systems necessary to support a facility or necessary to deliver services to or from the facility, including, but not limited to, telecommunications and computer equipment and systems.

~~(e)~~

(d) “Premium seat license” means a license that grants a right to purchase various classes of tickets for specific seat locations,

1 including the right to transfer or sell seats and other privileges
2 related to ticket purchases and attendance at the facility.

3
4 Article 2. ~~California Public Performance Facilities Authority~~
5 *General Provisions*
6

7 ~~6402. The California Public Performance Facilities Authority~~
8 ~~is hereby established in state government.~~

9 ~~6403. (a) The authority shall be administered by a board of~~
10 ~~directors composed of nine members appointed pursuant to~~
11 ~~subdivision (b) and shall conduct its business in accordance with~~
12 ~~this chapter.~~

13 ~~(b) The members of the board shall be individuals with~~
14 ~~knowledge or expertise, whether by experience or training, in the~~
15 ~~fields of commercial development, entertainment, sports,~~
16 ~~agriculture, the arts, or other areas consistent with the purposes~~
17 ~~of this chapter, and shall include all of the following:~~

18 ~~(1) Five members appointed by the Governor.~~

19 ~~(2) Two members appointed by the Senate Committee on~~
20 ~~Rules.~~

21 ~~(3) Two members appointed by the Speaker of the Assembly.~~

22 ~~(c) The term of a board member shall be four years.~~

23 ~~(d) Any vacancy in the membership of the board shall not~~
24 ~~affect the powers of the board and shall be filled in the same~~
25 ~~manner as the original appointment.~~

26 ~~(e) The chair of the board shall be elected by a majority of the~~
27 ~~members of the board at the first official meeting of the board.~~

28 ~~6404.~~

29 ~~6402. (a) Five members of the board shall constitute a~~
30 ~~quorum to conduct business, but the board may establish a lesser~~
31 ~~quorum for conducting hearings. The board may establish by~~
32 ~~majority vote any other rules for the conduct of the board's~~
33 ~~business under this chapter, if the rules are not inconsistent with~~
34 ~~this chapter or other provisions of law.~~

35 ~~(b) The board may hold hearings, sit and act at designated~~
36 ~~times and places, administer oaths, take testimony, and receive~~
37 ~~evidence as the board considers advisable to carry out its duties.~~
38 ~~The board shall give notice of its meetings in accordance with the~~
39 ~~Bagley-Keene Open Meeting Act (Article 9 (commencing with~~
40 ~~Section 11120) of Part 1 of Division 3 of Title 2).~~

1 (c) Witnesses requested to appear before the board may be
2 paid the same fees as are paid to witnesses pursuant to the Code
3 of Civil Procedure. The per diem and mileage allowances for
4 witnesses shall be paid from funds appropriated to the board.

5 (d) The board may secure directly from any state or local
6 agency information the board considers necessary to carry out its
7 duties. Upon the request of the board, the head of a department or
8 agency shall furnish information to the board.

9 ~~6405. (a) (1) Except as provided in subdivision (b),~~
10 ~~members of the board shall be compensated at a rate equal to the~~
11 ~~daily equivalent of the per diem and mileage rate for state~~
12 ~~executive officers when engaged in the performance of their~~
13 ~~official duties.~~

14 ~~(2) Members of the board shall be allowed travel expenses,~~
15 ~~including per diem in lieu of subsistence, at rates authorized for~~
16 ~~employees of state agencies while away from their homes or~~
17 ~~regular places of business in the performance of service for the~~
18 ~~board.~~

19 ~~(b) All members of the board who serve as officers or~~
20 ~~employees of the state or a local government shall serve without~~
21 ~~compensation in addition to that received for those services.~~

22 23 Article 3. Powers and Duties 24

25 6406. The ~~authority~~ *board* may exercise all rights and
26 powers, expressed or implied, necessary to carry out the purposes
27 and intent of this chapter and may do all of the following in that
28 regard:

29 (a) Sue and be sued in its own name.

30 (b) (1) Acquire, construct, manage, maintain, or operate any
31 facility or improvement described in subdivision (c) of Section
32 6401 that has received all necessary land use and other
33 development approvals required by the city, county, or city and
34 county in which the proposed facility will be located.

35 (2) Except as provided in this chapter, a facility or
36 improvement constructed pursuant to this chapter shall be subject
37 to laws applicable to state-owned facilities.

38 (c) Hold, manage, occupy, dispose of, convey, encumber, and
39 create leasehold interests in property for the benefit of the
40 authority.

1 (d) Contract with agents and employ employees, define their
2 qualifications and duties, and provide compensation for the
3 performance of their duties.

4 (e) Employ counsel.

5 (f) Establish and enforce rules and regulations for the
6 administration of the ~~authority~~ *board* and its property.

7 (g) Enter into joint exercise of powers agreements pursuant to
8 Chapter 5 (commencing with Section 6500) of Division 7 of Title
9 1.

10 (h) Contract with any other public agency for any services
11 necessary to carry out the purposes of this chapter.

12 (i) (1) Notwithstanding any other provision of state law or
13 local ordinance, sell directly or through an agent or agents, upon
14 terms to be fixed by the ~~authority~~ *board*, premium seat licenses,
15 facility naming rights, or sponsorship rights to raise funds for
16 facility construction, in addition to funds raised pursuant to
17 Article 4 (commencing with Section 6410).

18 (2) Upon completion of a facility, the ~~authority~~ *board* may
19 continue to sell premium seat licenses, facility naming rights, or
20 sponsorship rights.

21 (3) Notwithstanding any other provision of law, the ~~authority~~
22 *board* may impose a transaction fee upon the sale of premium
23 seat licenses, facility naming rights, and sponsorship rights. The
24 fee imposed by the ~~authority~~ *board* may not exceed the actual
25 administrative costs of the ~~authority~~ *board*, including applicable
26 overhead costs, in carrying out the purposes of this chapter.

27 (j) Impose a facilities fee on tickets sold at a facility financed
28 by the ~~authority~~ *board*, which shall be applied to the
29 indebtedness associated with the facility, and the administrative
30 costs of the ~~authority~~ *board*.

31 (k) Incur debts, liabilities, or obligations, which shall not be
32 considered the debts, liabilities, or obligations of the state.

33 6407. (a) Subject to subdivision (b), the ~~authority~~ *board* shall
34 operate, maintain, and preserve a facility financed pursuant to
35 this chapter in good repair and working order, and shall operate
36 the facility in an efficient and economical manner.

37 (b) (1) Notwithstanding subdivision (a), the ~~authority~~ *board*
38 may lease or rent concessions, lease or rent the facility, or
39 otherwise provide for the operation of the facility.

(2) In addition to any agreement described in paragraph (1), the ~~authority~~ *board* may enter into an agreement with another state agency pursuant to Section 11256 or a public agency as defined in Section 22009.01 for the purpose of operating a facility for the general recreational purposes of a city or county.

6408. Excess revenues received pursuant to this chapter shall not be available for any other state expense, but shall be retained by the ~~authority~~ *board* for its administrative expenses. Except as provided in this chapter, the ~~authority~~ *board* may not use state funds for any of the purposes set forth in this chapter.

Article 4. Issuance of Bonds and Indebtedness

6410. In addition to other powers, the ~~authority may enter into an agreement with the California Infrastructure and Economic Development Bank to~~ *board may* issue revenue bonds pursuant to Article 5 (commencing with Section 63043) of Division 1 of Title 6.7 to pay the cost and expenses of acquiring or constructing a facility or of projects or programs associated with the facility. For purposes of Article 5 (commencing with Section 63043) of Division 1 of Title 6.7, a facility acquired, constructed, managed, maintained, or operated pursuant to this chapter shall be deemed to be an economic development facility.

6411. (a) An indenture providing the terms and conditions for the issuance of the revenue bonds and the covenants relating to the bonds shall be approved by resolution adopted by the board of directors ~~of the bank~~. The indenture shall describe or state the revenues and funds from which the bonds shall be payable. The funds or revenues shall include the revenues derived from the operation of the facility for which the bond proceeds are used or expended and any other revenues derived from the facility.

(b) ~~The~~ *Notwithstanding any other provision of law, the* principal and interest of the revenue bonds shall be payable as follows:

(1) First, out of the revenue derived from the operation of the facility for which the bond proceeds were or are to be used or expended or any other revenues derived from the facility, including facilities fees imposed pursuant to subdivision (j) of Section 6406.

(2) (A) Second, from other revenues, including existing funds, of the ~~authority board~~ that are described or stated as security for the bonds in the indenture in accordance with this section.

(B) Notwithstanding subparagraph (A), no revenue derived from any other facility owned by the ~~authority board~~ shall be applied to payment of principal or interest, or any related cost, of the bonds, nor stated as security for the bonds.

~~6412. The indenture authorizing the issuance of the revenue bonds shall provide the denomination or denominations of the bonds, the medium of payment of principal and interest, the place of payment of the bonds and interest, which may be in or outside the state, the form of the bonds, including recitals of regularity of the proceedings for the issuance of the bonds, and of interest coupons pertaining to the bonds, the form, denominations and conditions of any temporary bonds or interim certificates, and the manual and facsimile signatures to be attached to the bonds or certificates, one signature upon which shall be manual, and the manual or facsimile signature to be affixed to the interest coupons.~~

~~6413. The indenture may provide the terms and conditions under which the revenue bonds may be paid, redeemed before maturity, including the premiums, if any, to be payable upon bonds redeemed prior to maturity, exchanged, registered, transferred, and negotiated. No bond shall be redeemable prior to maturity unless a statement substantially to that effect is contained in the bond.~~

~~6414. The indenture may also provide for all of the following:~~

~~(a) Issuance of a duplicate in the manner and upon the terms and conditions the authority determines, in the event any bond, temporary bond, coupon or interim certificate of any issue is lost, destroyed, or mutilated.~~

~~(b) A covenant or provision against entering into any agreement that impairs the operation of the facility or any part of it necessary to secure adequate revenues to pay the principal and interest of the bonds or that otherwise would impair the rights of the bondholders with respect to the revenues or the operation of the facility.~~

~~(c) Events of default and the terms upon which the bonds may be declared due before maturity and the terms upon which that declaration and its consequences may be waived.~~

1 ~~(d) The rights, liabilities, powers, and duties arising upon the~~
2 ~~authority's breach of any covenants, conditions, or obligations of~~
3 ~~the indenture.~~

4 ~~(e) A fiscal agent and the deposit of funds with that agent.~~

5 ~~6415. The indenture authorizing the issuance of the revenue~~
6 ~~bonds and all resolutions or orders in the proceeding for the~~
7 ~~issuance of the bonds shall constitute a contract with the holders~~
8 ~~of the bonds. That contract may be enforced by any holder by~~
9 ~~mandamus, injunction, or any applicable legal action, suit,~~
10 ~~proceeding, or other remedy.~~

11 ~~6416. In the indenture authorizing the issuance of the revenue~~
12 ~~bonds, the authority may also fix additional terms and conditions~~
13 ~~and may in any article, section, or clause make any provision or~~
14 ~~covenant it deems necessary or desirable to facilitate the issuance~~
15 ~~and sale of the bonds or for the protection or security of the~~
16 ~~holders of the bonds, including, but not limited to, provision for~~
17 ~~any or all of the matters stated in this article.~~

18 ~~6417. (a) The revenue bonds shall be issued and sold as the~~
19 ~~authority may determine and for not less than par and accrued~~
20 ~~interest to date of delivery, except that, in the case of bonds for a~~
21 ~~facility, the bonds may be sold at less than par if the authority~~
22 ~~determines that the sale will result in more favorable terms for~~
23 ~~the bonds.~~

24 ~~(b) The proceeds from the sale, except premium and accrued~~
25 ~~interest, that shall be paid into the bond service or other fund~~
26 ~~designated or established for the payment of the principal and~~
27 ~~interest of the bonds, shall be paid into the construction fund or~~
28 ~~other fund designated by the indenture authorizing the issuance~~
29 ~~of the bonds and shall be applied exclusively to the objects and~~
30 ~~purposes set forth in the indenture, including all incidental or~~
31 ~~related expenses and the payment of interest on the bonds during~~
32 ~~the period of study and construction of the facility and for a~~
33 ~~period not to exceed 12 months after completion of the~~
34 ~~construction.~~

35 ~~6418. The authority may incur other forms of indebtedness,~~
36 ~~including, but not limited to, notes, warrants, equity interests, and~~
37 ~~leasehold interests pursuant to this chapter, subject to~~
38 ~~authorization by a resolution adopted by a majority of the board~~
39 ~~at a regularly scheduled meeting. This indebtedness may be~~

1 secured by a pledge, with the power of sale, of all or any part of
2 bonds authorized under this section or issued under this chapter.

3 ~~6419. All bonds and the interest and income from the bonds~~
4 ~~are exempt from all taxation in this state.~~

5 ~~6420. (a) The authority may provide for the issuance, sale, or~~
6 ~~exchange of refunding bonds for the purpose of redeeming or~~
7 ~~retiring any revenue bonds issued by the authority and any other~~
8 ~~indebtedness incurred by the authority. All provisions of this~~
9 ~~chapter applicable to the issuance of revenue bonds are~~
10 ~~applicable to the funding or refunding bonds and to the issuance,~~
11 ~~sale, or exchange.~~

12 ~~(b) Funding or refunding bonds may be issued in a principal~~
13 ~~amount sufficient to provide funds for the payment of all of the~~
14 ~~following:~~

15 ~~(1) All bonds to be funded or refunded by the funding or~~
16 ~~refunding bonds.~~

17 ~~(2) All expenses incident to the calling, retiring, or paying of~~
18 ~~the outstanding bonds and the issuance of the funding or~~
19 ~~refunding bonds, including the costs of issuing the refunding~~
20 ~~bonds.~~

21 ~~(3) Interest upon the funding or refunding bonds from the date~~
22 ~~of sale to the date of payment of the bonds to be funded or~~
23 ~~refunded out of the proceeds of the sale or the date upon which~~
24 ~~the bonds to be funded or refunded will be paid pursuant to the~~
25 ~~call or agreement with the holders of the bonds.~~

26 ~~(4) Any premium necessary in the calling or retiring of the~~
27 ~~outstanding bonds and the interest accruing on them to the date~~
28 ~~of the call or retirement.~~

29 ~~6421.~~

30 ~~6412. Any bonds issued under this chapter shall be payable~~
31 ~~within not more than 40 years from the date of issue.~~

32 ~~6422.~~

33 ~~6413. Neither the revenue bonds issued under this chapter,~~
34 ~~the contracts or obligations entered into to carry out the purposes~~
35 ~~for which bonds are issued, payable in whole or in part from the~~
36 ~~proceeds of the bonds, nor any other form of indebtedness~~
37 ~~incurred by the authority board, shall constitute a debt, liability,~~
38 ~~or obligation of the state. Any bond or other evidence of~~
39 ~~indebtedness issued pursuant to this chapter shall state this~~
40 ~~provision on its face.~~

Article 5. Construction of Chapter

6423. This chapter shall be liberally construed to effectuate its purposes.

6424. If any provision of this chapter or the application of any provision of this chapter in any circumstance to any person, city, county, or district, the state, or any agency or subdivision of the state, is held invalid, that invalidity shall not affect other provisions or applications of this chapter that may be given effect without the invalid provision or application of the invalid provision, and to this end the provisions of this chapter are severable.